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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR PART 393

[FHWA Docket No. MC-96-5]

RIN 2125-AD76

**Parts and Accessories Necessary for
Safe Operation: Television Receivers
and Data Display Units**

AGENCY: Federal Highway
Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking
(NPRM); request for comments.

SUMMARY: The FHWA is proposing to rescind restrictions on the locations at which television viewers or screens may be positioned within commercial motor vehicles (CMVs). Under the President's Regulatory Reinvention Initiative, the FHWA has reviewed the Federal Motor Carrier Safety Regulations (FMCSRs) and believes the restrictions to be obsolete and redundant. The unsafe behavior that the regulation is intended to discourage is more effectively deterred through State traffic laws concerning driver inattentiveness. Further, the current regulation may have the unintended effect of discouraging the use of certain Intelligent Transportation Systems (ITS)-related

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technologies such as collision-avoidance and traveler information systems which could be used to improve safety and efficiency of CMV operations.

DATES: Written comments must be received on or before June 3, 1996.

ADDRESSES: Submit written, signed comments to FHWA Docket No. MC-96-5, Room 4232, HCC-10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Motor Carrier Research and Standards, HCS-10, (202) 366-4009; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC-20, (202) 366-1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 1951, after conferences with representatives of the motor carrier industry to discuss the need for revisions to the Federal Motor Carrier Safety Regulations (FMCSRs) and consultations with Federal and State agencies, technical societies and other experts, the Interstate Commerce Commission (ICC) published a comprehensive notice of proposed rulemaking (NPRM) (16 FR 23).

The NPRM included a section on television receivers. The ICC proposed that any commercial motor vehicle equipped with a television viewer, screen or other means of visually receiving a television broadcast be required to have the viewer or screen located at a point to the rear of the driver's seat if the device is in the driver's compartment. Further, the viewer or screen could not be visible to the driver while the vehicle is being operated. The television controls would have to be located so they could not be operated from the driver's seat. The NPRM did not discuss this section, but the proposal was apparently intended to prevent a potential problem from becoming a reality. It is unlikely that any significant number of television receivers had been installed in trucks by the early 1950's.

On May 15, 1952, the ICC published a final rule adopting the proposed restrictions on television receivers, along with many other new or revised regulations (17 FR 4422). The ICC report on the final rule amounted to a preamble, but, like the NPRM, it failed to explain why the television provision was necessary (54 M.C.C. 337, April 14, 1952). The regulation has not been amended since 1952.

Regulatory Reinvention

As part of the President's Regulatory Reinvention Initiative, the FHWA has reviewed the FMCSRs and believes that § 393.88 is obsolete and redundant. At the time it was adopted, the ICC apparently believed that the absence of a Federal requirement would tempt drivers or motor carriers to install receivers that operators could watch while driving. This concern has not been borne out, and was probably unrealistic even in 1952. Television broadcasts are designed to be visually attractive and therefore have an enormous potential to distract the driver. For that very reason, however, motor carriers recognize the inherent safety risks of allowing drivers to watch television while driving, which would make them far more susceptible to accidents that could be avoided by watching the road and other vehicles. There is no reason to believe that § 393.88 has any beneficial effect on the behavior of drivers or motor carriers.

The behavior that § 393.88 is intended to address, driver inattentiveness, is effectively covered by State laws. Accidents attributed to driver inattentiveness are generally cited by State officials as a failure to maintain control of the vehicle, with a brief description of the activity with which the driver was preoccupied. Therefore, State's have a legal means to cite commercial motor vehicle drivers for failing to pay attention to their driving tasks.

In addition to being obsolete, the regulation may have the unintended effect of discouraging the use of certain ITS-related technologies such as collision-avoidance and traveler information systems which could be used to improve the safety and efficiency of CMV operations. These systems may include the use of in-vehicle display screens which provide real-time displays of areas of traffic congestion, construction, and accidents on maps which may be viewed by the driver while the vehicle is being operated. Some satellite communications systems enable motor carriers to track CMVs en route to a destination and to transmit written

messages to drivers that appear on video terminals in the cab. Also, some collision avoidance/warning systems display video images of traffic around the CMV.

On November 17, 1993 (58 FR 60734, 60757), the FHWA published regulatory guidance on the applicability of § 393.88 to closed circuit monitoring devices used as safety viewing systems to prevent certain types of accidents between passenger cars and CMVs. The regulatory guidance indicated that § 393.88 is not applicable if the system cannot receive television broadcasts or be used for the viewing of video tapes.

More recently the FHWA has received a number of requests for regulatory guidance on the applicability of § 393.88 to other configurations of display units that may be viewed by the driver while the vehicle is being operated. Some of these systems have functions which could be considered inconsistent with the intent of § 393.88 in that the systems may be capable of displaying information or video images that are not associated with collision avoidance or other ITS concepts.

The FHWA believes that case-by-case regulatory guidance on the many different configurations of in-cab video display systems would be burdensome, confusing, and ineffective at ensuring safety. It would not be in the best interest of the manufacturers of these systems, the motor carrier industry, or the agency. Further, the regulatory guidance process, if applied to each make and model of in-cab displays, would become a *de facto* design approval program. Equipment manufacturers, motor carriers, and CMV drivers are capable of working together to design and develop in-cab information systems using the most cost-effective technology and resources to facilitate improvements in the safety and efficiency of CMV operations. The effectiveness of this approach would be greatly enhanced by the removal of § 393.88.

This rulemaking is not intended to encourage motor carriers to install display screens for entertainment purposes or otherwise reduce the safety of operation of commercial motor vehicles. Rather, it is the intent of this rulemaking to eliminate a Federal regulation that does not ensure a level of safety greater than that provided by State laws, and to remove regulatory obstacles to the use of ITS-related technologies.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be

considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has considered the impacts of this document and has determined that it is neither a significant rulemaking action within the meaning of Executive Order 12866 nor a significant rulemaking under the regulatory policies and procedures of the Department of Transportation. The rulemaking would amend part 393 of the FMCSRs by removing an obsolete regulation. It is anticipated that the economic impact of this rulemaking will be minimal. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601-612), the FHWA has evaluated the effects of this rule on small entities. Based upon this evaluation, and for the reasons set forth in the preceding paragraph, the FHWA certifies that this rule would not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This document does not contain information collection requirements for the purposes of the Paperwork

Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

National Environmental Policy Act

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 393

Highway safety, Highways and roads, Motor carriers, Motor vehicle safety.

Issued on: March 26, 1996.

Rodney E. Slater,
Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend title 49, Code of Federal Regulations, subchapter B, chapter III, as follows:

PART 393—[AMENDED]

1. The authority citation for part 393 continues to read as follows:

Authority: Section 1041(b) of Pub. L. 102-240, 105 Stat. 1914, 1993 (1991); 49 U.S.C. 31136 and 31502; 49 CFR 1.48.

§ 393.88 [Removed and Reserved]

2. Section 393.88 is removed and reserved.

[FR Doc. 96-6179 Filed 4-2-96; 8:45 am]

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